

REFERENCE TITLE: initiative and referendum amendments

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2288

Introduced by
Representatives Stump: Barto, Clark, Gallardo, McClure

AN ACT

AMENDING SECTIONS 16-918, 19-116, 19-121.01, 19-121.02, 19-121.04 AND 19-124,
ARIZONA REVISED STATUTES; RELATING TO INITIATIVE AND REFERENDUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-918, Arizona Revised Statutes, is amended to
3 read:

4 16-918. Campaign finance reports; notice; civil penalty;
5 prohibition on candidacy

6 A. If a political committee fails to file a report in a timely manner
7 as required by this chapter, the filing officer shall send written notice of
8 the delinquency of the report to the political committee and the candidate,
9 in the case of the candidate's campaign committee, or to the designating
10 individual, in the case of an individual's exploratory committee. The notice
11 shall be sent by certified mail within fifteen days after the filing officer
12 determines there may be a failure to file a campaign finance report. The
13 notice shall provide with reasonable particularity the nature of the failure
14 and a statement of the penalties provided in this section.

15 B. A political committee, or in the case of a candidate's campaign
16 committee, the candidate, or in the case of an exploratory committee, the
17 designating individual, is liable for a late penalty of ten dollars for each
18 day after failure to make or file a campaign finance report that is required
19 pursuant to this chapter up to a maximum of four hundred fifty dollars. The
20 filing officer shall not accept a campaign report unless any penalties owed
21 as a result of this section or any penalties imposed pursuant to section
22 16-924 are paid with the report.

23 C. A political committee, or in the case of a candidate's campaign
24 committee, the candidate, or in the case of an exploratory committee, the
25 designating individual, that has failed to file within fifteen days after
26 receiving a notice of delinquency pursuant to subsection A of this section is
27 liable for a civil penalty of twenty-five dollars for each subsequent day
28 that the filing is late. This penalty shall be assessed pursuant to section
29 16-924.

30 D. For purposes of this section, there is a failure to make and file a
31 campaign finance report by the treasurer, the designating individual, in the
32 case of an exploratory committee, the candidate, in the case of a candidate's
33 campaign committee, and for all other political committees, the chairman, if
34 any of the following occurs:

35 1. The report is not filed in a timely manner as prescribed by section
36 16-913.

37 2. The report is not signed in accordance with section 16-913.

38 3. A good faith effort is not made to substantially complete the
39 report as prescribed by section 16-915.

40 E. It is a defense to an enforcement action brought pursuant to this
41 section if good cause is shown by the treasurer, the designating individual,
42 in the case of an exploratory committee, or the candidate, in the case of a
43 candidate's campaign committee, for the failure to make and file a campaign
44 finance report. For purposes of this subsection, good cause includes an
45 illness or absence from this state at the time the campaign finance report

1 was due or the written notice of delinquency was delivered if the illness or
 2 absence reasonably prevented the treasurer, designating individual or
 3 candidate from filing the report or receiving the written notice.

4 F. In addition to the enforcement actions prescribed by this section,
 5 a person who was a candidate for nomination or election to any local or state
 6 office and who after written notice pursuant to this section failed to make
 7 and file a campaign finance report as required by this chapter is not
 8 eligible to be a candidate for nomination or election to any local or state
 9 office for five years after the last failure to make and file a campaign
 10 finance report occurred. This penalty shall be imposed as follows:

11 1. A candidate's failure to make and file a campaign finance report
 12 with a filing officer for a jurisdiction is grounds for that filing officer
 13 to refuse the candidate's nomination paper for any public office in that
 14 jurisdiction as described in this subsection.

15 2. A candidate's failure to make and file a campaign finance report
 16 with any filing officer is grounds for a filing officer from another
 17 jurisdiction to refuse the candidate's nomination paper for any public office
 18 on presentation of a certified copy of a final order issued pursuant to
 19 section 16-924.

20 G. For a standing political committee, in addition to any late penalty
 21 and civil penalty assessed pursuant to this section, if the standing
 22 political committee makes a late filing three or more times, the standing
 23 political committee is no longer eligible for consolidated filing status
 24 pursuant to section 16-913, subsection K and shall make all of its filings in
 25 each reporting jurisdiction in which it is active.

26 H. FOR ANY POLITICAL COMMITTEE THAT HAS FAILED TO FILE THREE
 27 CONSECUTIVE CAMPAIGN FINANCE REPORTS WITH THE SECRETARY OF STATE AS
 28 PRESCRIBED BY THIS CHAPTER, THE SECRETARY OF STATE SHALL SEND THE COMMITTEE
 29 CHAIRMAN AND TREASURER A WRITTEN NOTICE OF INTENT TO SUSPEND THE POLITICAL
 30 COMMITTEE. THE NOTICE OF INTENT TO SUSPEND SHALL STATE THAT FAILURE OF THE
 31 POLITICAL COMMITTEE TO FULLY COMPLY WITH ALL FILING REQUIREMENTS FOR THAT
 32 COMMITTEE, INCLUDING ANY REQUIRED PAYMENTS, WITHIN FIVE DAYS OF RECEIPT OF
 33 THE NOTICE SHALL RESULT IN SUSPENSION OF THE POLITICAL COMMITTEE'S AUTHORITY
 34 TO OPERATE IN THIS STATE. ON SUSPENSION OF THE POLITICAL COMMITTEE'S
 35 AUTHORITY TO OPERATE, THE SECRETARY OF STATE IS NO LONGER REQUIRED TO PROVIDE
 36 ANY FURTHER NOTICE OF DELINQUENCY TO THE POLITICAL COMMITTEE. THIS
 37 SUBSECTION DOES NOT REDUCE OR ELIMINATE THE POLITICAL COMMITTEE'S CONTINUING
 38 OBLIGATION TO MAKE CAMPAIGN FINANCE FILINGS AND PAY ANY FINES, PENALTIES,
 39 CIVIL PENALTIES OR OTHER SANCTIONS THAT MAY CONTINUE TO ACCRUE AS OTHERWISE
 40 PROVIDED BY LAW.

41 Sec. 2. Section 19-116, Arizona Revised Statutes, is amended to read:

42 19-116. Signing petitions; coercion; intimidation; false
 43 description; classification

44 A. A person who knowingly coerces any other person by menace or
 45 threat, or threatens any other person to the effect that the other person

1 will or may be injured in his business, or discharged from employment, or
2 that he will not be employed, to sign or subscribe, or to refrain from
3 signing or subscribing, his name to an initiative or referendum petition, or,
4 after signing or subscribing his name, to have his name taken therefrom, is
5 guilty of a class 1 misdemeanor.

6 B. A PERSON WHO IS A CIRCULATOR OF AN INITIATIVE OR REFERENDUM
7 PETITION AND WHO INDUCES ANY OTHER PERSON IN THE CIRCULATOR'S PRESENCE TO
8 SIGN THE INITIATIVE OR REFERENDUM PETITION BY KNOWINGLY FALSELY DESCRIBING OR
9 FAILING TO DESCRIBE THE GENERAL SUBJECT MATTER OF THE MEASURE IS GUILTY OF A
10 CLASS 1 MISDEMEANOR.

11 Sec. 3. Section 19-121.01, Arizona Revised Statutes, is amended to
12 read:

13 19-121.01. Secretary of state; removal of petition and
14 ineligible signatures; facsimile sheets; random
15 sample

16 A. Within ~~fifteen~~ TWENTY days, excluding Saturdays, Sundays and other
17 legal holidays, of the date of filing of an initiative or referendum petition
18 and issuance of the receipt, the secretary of state shall:

19 1. Remove the following:

20 (a) Those sheets not attached to a copy of the title and text of the
21 measure.

22 (b) The copy of the title and text from the remaining petition sheets.

23 (c) Those sheets not bearing the petition serial number in the lower
24 right-hand corner of each side.

25 (d) Those sheets containing a circulator's affidavit that is not
26 completed or signed.

27 (e) Those sheets on which the affidavit of the circulator is not
28 notarized, the notary's signature is missing, the notary's commission has
29 expired or the notary's seal is not affixed.

30 (f) Those sheets on which the signatures of the circulator or the
31 notary are dated earlier than the dates on which the electors signed the face
32 of the petition sheet.

33 2. After completing the steps in paragraph 1 of this subsection,
34 review each sheet to determine the county of the majority of the signers and
35 shall:

36 (a) Place a three or four letter abbreviation designating that county
37 in the upper right-hand corner of the face of the petition.

38 (b) Remove all signatures of those not in the county of the majority
39 on each sheet by marking an "SS" in red ink in the margin to the right of the
40 signature line.

41 (c) Cause all signature sheets to be grouped together by county of
42 registration of the majority of those signing and attach them to one or more
43 copies of the title and text of the measure. If the sheets are too bulky for
44 convenient grouping by the secretary of state in one volume by county, they
45 may be bound in two or more volumes with those in each volume attached to a

1 single printed copy of the measure. The remaining detached copies of the
2 title and text of the measure shall be delivered to the applicant.

3 3. After completing the steps in paragraph 2 of this subsection,
4 remove the following signatures that are not eligible for verification by
5 marking an "SS" in red ink in the margin to the right of the signature line:

6 (a) If the signature of the qualified elector is missing.

7 (b) If the residence address or the description of residence location
8 is missing.

9 (c) If the date on which the petitioner signed is missing.

10 (d) Signatures in excess of the fifteen signatures permitted per
11 petition.

12 (e) Signatures withdrawn pursuant to section 1-261.

13 4. After the removal of petition sheets and signatures, count the
14 number of signatures for verification on the remaining petition sheets and
15 note that number in the upper right-hand corner of the face of each petition
16 sheet immediately above the county designation.

17 5. Number the remaining petition sheets that were not previously
18 removed and that contain signatures eligible for verification in consecutive
19 order on the front side of each petition sheet in the upper left-hand corner.

20 6. Count all remaining petition sheets and signatures not previously
21 removed and issue a receipt to the applicant of this total number eligible
22 for verification.

23 B. If the total number of signatures for verification as determined
24 pursuant to subsection A, paragraph 6 of this section equals or exceeds the
25 constitutional minimum, the secretary of state, during the same fifteen day
26 period provided in subsection A of this section, shall select, at random,
27 five per cent of the total signatures eligible for verification by the county
28 recorders of the counties in which the persons signing the petition claim to
29 be qualified electors. The random sample of signatures to be verified shall
30 be drawn in such a manner that every signature eligible for verification has
31 an equal chance of being included in the sample. The random sample produced
32 shall identify each signature selected by petition page and line number. The
33 signatures selected shall be marked according to the following procedure:

34 1. Using red ink, mark the selected signature by circling the line
35 number and drawing a line from the base of the circle extending into the left
36 margin.

37 2. If a signature line selected for the random sample is found to be
38 blank or was removed from the verification process pursuant to subsection A
39 of this section and is marked with an "SS", then the next line down, even if
40 that requires going to the next petition sheet in sequence, on which an
41 eligible signature appears shall be selected as a substitute if that line has
42 not already been selected for the random sample. If the next eligible line
43 is already being used in the random sample, the secretary of state shall
44 proceed back up the page from the signature line originally selected for the
45 random sample to the next previous signature line eligible for verification.

1 If that line is already being used in the random sample, the secretary of
2 state shall continue moving down the page or to the next page from the line
3 originally selected for the random sample and shall select the next eligible
4 signature as its substitute for the random sample. The secretary of state
5 shall use this process of alternately moving forward and backward until a
6 signature eligible for verification and not already included in the random
7 sample can be selected and substituted.

8 C. After the selection of the random sample and the marking of the
9 signatures selected on the original petition sheets pursuant to subsection B
10 of this section, the secretary of state shall reproduce a facsimile of the
11 front of each signature sheet on which a signature included in the random
12 sample appears. The secretary of state shall clearly identify those
13 signatures marked for verification by color highlighting or other similar
14 method and shall transmit by personal delivery or certified mail to each
15 county recorder a facsimile sheet of each signature sheet on which a
16 signature appears of any individual ~~claiming~~ WHO CLAIMS to be a qualified
17 elector of that county AND whose signature was selected for verification as
18 part of the random sample.

19 D. The secretary of state shall retain in custody all signature sheets
20 removed pursuant to this section except as otherwise prescribed in this
21 title.

22 Sec. 4. Section 19-121.02, Arizona Revised Statutes, is amended to
23 read:

24 19-121.02. Certification by county recorder

25 A. Within ~~ten~~ FIFTEEN days, excluding Saturdays, Sundays and other
26 legal holidays, after receiving the facsimile signature sheets from the
27 secretary of state pursuant to section 19-121.01, the county recorder shall
28 determine which signatures of individuals whose names were transmitted shall
29 be disqualified for any of the following reasons:

30 1. No residence address or description of residence location is
31 provided.

32 2. No date of signing is provided.

33 3. The signature is illegible and the signer is otherwise
34 unidentifiable.

35 4. The address provided is illegible or nonexistent.

36 5. The individual was not a qualified elector on the date of signing
37 the petition.

38 6. The individual was a registered voter but was not at least eighteen
39 years of age on the date of signing the petition or affidavit.

40 7. The signature was disqualified after comparison with the signature
41 on the affidavit of registration.

42 8. If a petitioner signed more than once, all but one otherwise valid
43 signature shall be disqualified.

1 9. For the same reasons any signatures or entire petition sheets could
2 have been removed by the secretary of state pursuant to section 19-121.01,
3 subsection A, [PARAGRAPH 3](#).

4 B. Within the same time period provided in subsection A of this
5 section, the county recorder shall certify to the secretary of state the
6 following:

7 1. The name of any individual whose signature was included in the
8 random sample and disqualified by the county recorder together with the
9 petition page and line number of the disqualified signature.

10 2. The total number of signatures selected for the random sample and
11 transmitted to the county recorder for verification and the total number of
12 random sample signatures disqualified.

13 C. The secretary of state shall prescribe the form of the county
14 recorder's certification.

15 D. At the time of the certification, the county recorder shall:

16 1. Return the facsimile signature sheets to the secretary of state.

17 2. Send notice of the results of the certification by mail to the
18 person or organization that submitted the initiative or referendum petitions
19 and to the secretary of state.

20 Sec. 5. Section 19-121.04, Arizona Revised Statutes, is amended to
21 read:

22 19-121.04. [Disposition of petitions by secretary of state](#)

23 A. Within ~~forty-eight~~ SEVENTY-TWO hours, excluding Saturdays, Sundays
24 and other legal holidays, after receipt of the facsimile signature sheets and
25 the certification of each county recorder, the secretary of state shall
26 determine the total number of valid signatures by subtracting from the total
27 number of eligible signatures determined pursuant to section 19-121.01,
28 subsection A, paragraph 6 in the following order:

29 1. All signatures on petitions containing a defective circulator's
30 affidavit.

31 2. All signatures that were found ineligible by the county recorders
32 and that were not subtracted pursuant to paragraph 1 of this subsection.

33 3. After determining the percentage of all signatures found to be
34 invalid in the random sample, a like percentage from those signatures
35 remaining after the subtractions performed pursuant to paragraphs 1 and 2 of
36 this subsection.

37 B. If the actual number of signatures after certification pursuant to
38 subsection C of this section on the remaining sheets after any such
39 subtraction equals or exceeds the minimum number required by the constitution
40 or if the number of valid signatures as projected from the random sample
41 pursuant to subsection A of this section is at least one hundred five per
42 cent of the minimum number required by the constitution, the secretary of
43 state shall issue the following receipt to the person or organization that
44 submitted them:

_____ signature pages bearing _____
 signatures for initiative (referendum) petition serial number
 ____ have been refused for filing in this office because the
 person circulating them was a county recorder or justice of the
 peace at the time of circulating the petition or due to defects
 in the circulator's affidavit. A total of _____
 signatures included on the remaining petition sheets were found
 to be ineligible. Of the total random sample of _____
 signatures, a total of _____ signatures were invalidated by
 the county recorders resulting in a failure rate of _____
 per cent. The actual number of remaining signatures for such
 initiative (referendum) petition number _____ are equal to or
 in excess of the minimum required by the constitution to place a
 measure on the general election ballot. The number of valid
 signatures filed with this petition, based on the random sample,
 appears to be at least one hundred five per cent of the minimum
 required or through examination of each signature has been
 certified to be greater than the minimum required by the
 constitution.

Date: _____

 Secretary of State

(Seal)

The secretary of state shall then forthwith notify the governor that a
 sufficient number of signatures has been filed and that the initiative or
 referendum shall be placed on the ballot in the manner provided by law.

C. If the number of valid signatures as projected from the random
 sample is less than one hundred five but greater than ninety-five per cent of
 the minimum number required by the constitution, ~~then~~ the secretary of state
 shall order the examination and verification of each signature filed and
 shall so notify the county recorders. The county recorder's certification
 shall be in the form prescribed by the secretary of state.

D. If the number of valid signatures as projected from the random
 sample is less than ninety-five per cent of the minimum number required by
 the constitution or if the actual number of signatures on the remaining
 sheets after any such subtraction from the random sample or after
 certification fails to equal or exceed the minimum required by the
 constitution, the secretary of state shall immediately return the original
 signature sheets, in the form filed by him under section 19-121, to the
 person or organization that submitted them, together with a certified
 statement that, for the following reasons, the petition lacks the minimum
 number of signatures to place it on the general election ballot:

1 1. Signature sheets bearing secretary of state page
2 numbers _____ and bearing signatures of _____
3 persons appeared on petitions containing a defective
4 circulator's affidavit.

5 2. A total of _____ signatures on the remaining
6 petition sheets were found to be ineligible.

7 3. A total of _____ signatures included in
8 the random sample have been certified by the county recorders as
9 ineligible at the time such petition was signed and a projection
10 from such random sample has indicated that _____ more
11 signatures are ineligible to appear on the petition.

12 A facsimile of the certifications of the county recorders under section
13 19-121.02 shall accompany the signature sheets returned to the person or
14 organization that submitted them.

15 Sec. 6. Section 19-124, Arizona Revised Statutes, is amended to read:

16 19-124. Arguments and analyses on measures; cost; submission at
17 special election

18 A. The person filing an initiative petition may at the same time file
19 with the secretary of state an argument advocating the measure or
20 constitutional amendment proposed in the petition. Not later than ~~sixty~~
21 ~~FIFTY-THREE~~ days preceding the regular primary election a person may file
22 with the secretary of state an argument advocating or opposing the measure or
23 constitutional amendment proposed in the petition. Not later than ~~sixty~~
24 ~~FIFTY-THREE~~ days preceding the regular primary election a person may file
25 with the secretary of state an argument advocating or opposing any measure
26 with respect to which the referendum has been invoked, or any measure or
27 constitutional amendment referred by the legislature. Each argument filed
28 shall contain the original **NOTARIZED** signature of each person sponsoring
29 it. If the argument is sponsored by an organization, it shall ~~be signed by~~
30 **CONTAIN THE NOTARIZED SIGNATURE OF** two executive officers ~~thereof~~ **OF THE**
31 **ORGANIZATION** or if sponsored by a political committee it shall ~~be signed by~~
32 **CONTAIN THE NOTARIZED SIGNATURE OF** the committee's chairman or treasurer.
33 Payment of the deposit required by subsection D or reimbursement of the payor
34 constitutes sponsorship of the argument for purposes of this subsection. The
35 person or persons signing the argument shall identify themselves by giving
36 their residence or post office address and a telephone number, which
37 information shall not appear in the publicity pamphlet. Each argument filed
38 pursuant to this subsection shall not exceed three hundred words in length.

39 B. Not later than sixty days preceding the regular primary election
40 the legislative council, after providing reasonable opportunity for comments
41 by all legislators, shall prepare and file with the secretary of state an
42 impartial analysis of the provisions of each ballot proposal of a measure or
43 proposed amendment. The analysis shall include a description of the measure
44 and shall be written in clear and concise terms avoiding technical terms
45 wherever possible. The analysis may contain background information,

1 including the effect of the measure on existing law, or any legislative
2 enactment suspended by referendum, if the measure or referendum is approved
3 or rejected.

4 C. The analyses and arguments shall be included in the publicity
5 pamphlet immediately following the measure or amendment to which they refer.
6 Arguments in the affirmative shall be placed first in order, and first among
7 the affirmative or negative arguments shall be placed the arguments filed by
8 the person filing the initiative petition or the person who introduced the
9 measure or constitutional amendment referred. The remaining affirmative and
10 negative arguments shall be placed in the order in which they were filed with
11 the secretary of state. THE SECRETARY OF STATE, ON APPROVAL OF THE ATTORNEY
12 GENERAL, MAY PLACE ANY ARGUMENT IN THE AFFIRMATIVE SECTION OR IN THE NEGATIVE
13 SECTION, WITHOUT REGARD TO THE AFFIRMATIVE OR NEGATIVE DESIGNATION SUBMITTED
14 BY THE PERSON FILING THE ARGUMENT, IF THE SECRETARY OF STATE DETERMINES AND
15 THE ATTORNEY GENERAL AGREES THAT THE ARGUMENT HAS BEEN INACCURATELY
16 DESIGNATED AS AFFIRMATIVE OR NEGATIVE.

17 D. The person filing an argument shall deposit with the secretary of
18 state, at the time of filing, an amount of money as prescribed by the
19 secretary of state for the purpose of offsetting a portion of the
20 proportionate cost of the PURCHASE OF THE paper and THE printing of the
21 argument. If the person filing an argument requests that the argument appear
22 in connection with more than one proposition, a deposit shall be made for
23 each placement requested. No such deposit or payment shall be required for
24 the analyses prepared and filed by the legislative council. Any proportional
25 balance remaining of the deposit, after paying the cost, shall be returned to
26 the depositor.

27 E. When a measure is submitted at a special election, and time will
28 not permit full compliance with ~~the provisions of~~ this article, the charter
29 provision or ordinance providing for the special election shall make
30 provision for printing and distribution of the publicity pamphlet.

31 F. In the case of referendum petitions that are not required to be
32 filed until after the primary election or at a time so close to the primary
33 election that a referendum cannot be certified for the ballot before the
34 deadline for filing ballot arguments pursuant to subsection A, the secretary
35 of state may establish a separate deadline for filing the referendum ballot
36 arguments pursuant to rules adopted by the secretary of state.

37 Sec. 7. Emergency

38 This act is an emergency measure that is necessary to preserve the
39 public peace, health or safety and is operative immediately as provided by
40 law.